(15)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ.
& HON'BLE SHRI D.R. DESHMUKH, J.

Misc. Appeal NO. 989 OF 2005

Appellants Applicant

1. Nanku Ram S/o Mohana, Aged 45 years.
2. Smt. Kunwaria Bai W/o Nanku Ram Kanwar, aged 42 years, Both R/o village :Mundgaon, Tahsil & P.S. Dongargarh, District – Rajnandgaon (C.G.)

Vs.

RESPONDENTS Non-Applicants

1. Prakash Ram S/o Anjori Ram, aged 38 years, R/o Tumdibod, Tah. & P.S. Dongargaon, District Rajnandgaon (C.G.)
2. Indian Broiler Farm, Baldev Bagh, Rajnandgaon
3. The New India Insurance Company Limited, Kamthi Line, Rajnandgaon

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Present : Mr. Amiyakant Tiwari , learned counsel for the appellants.
Mr. Ali Asagar, learned counsel for respondent No.3

ORAL ORDER

(Passed on 3rd January, 2006)

The following order of the Court was passed by

S.R. NAYAK, CJ.

In this appeal where enhancement of compensation is sought, the contention urged by the learned counsel for the appellants is that on the date of the accident and demise of the deceased, the average age of the appellants-claimants was 43.5 years and therefore, the MACT ought to have applied multiplier 15 in terms of 2nd Schedule instead of wrongly applying multiplier 8. It was also contended that the MACT is not justified in not awarding any compensation towards loss of filial love and loss of estate. We find force in the contentions.

(16)

(2) There is no controversy between the parties that as on the date of accident, the appellants-claimants were aged 45 and 42 years respectively and therefore, the average age of the appellants- claimants would come to 43.5 years. In that view of the matter, the MACT ought to have applied multiplier 15 in terms of 2nd Schedule. If we apply multiplier 15, loss of dependency would come to Rs. 3,24,000/-. Therefore, we award a sum of Rs.3,24,000/- towards loss of dependency as against Rs.1,74,800/- awarded by the MACT. Loss of filial love and loss of estate are permissible heads under which compensation could be sought in a death case. Therefore, we award a sum of Rs.20,000/- towards loss of filial love and another sum of Rs.20,000/- towards loss of estate.

(3) In the result and for the foregoing reasons, we allow the appeal in part and in substitution of the impugned award, we award total compensation of Rs.3,69,000/- under the following heads

(i)	Loss of dependency	Rs. 3,24,000/-
(ii)	Loss of filial love	Rs. 20,000/-
(iii)	Loss of estate	Rs. 20,000/-
(iv)	Funeral expenses	Rs. 5,000/-
	Total	Rs.3,69,000/-

with interest @ 6% per annum from the date of claim petition till payment. The insurance company shall deposit the balance compensation within six weeks from today and on such deposit being made, the MACT shall invest/disburse the compensation money in the same proportions, if any, specified by it in the impugned award. However, the parties shall bear their respective costs in this appeal.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge